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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,205	04/28/2000	Peter V. Boesen, M.D.	P04425US0	3361

7590 12/31/2001

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EXAMINER

NASSER, ROBERT L

ART UNIT

PAPER NUMBER

3736

DATE MAILED: 12/31/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

DTY

# Office Action Summary

Application No.  
09/560,205

Applicant(s)  
Boesen

Examiner  
Robert Nasser

Group Art Unit  
3736



☒ Responsive to communication(s) filed on Oct 11, 2001

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) 18-29 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2-4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Applicant's election of Species I in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Accordingly, claims 18-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species.

The examiner notes that applicant listed claims 18 and 23-29 as being drawn to species I. However, the examiner notes that claim 18 requires a speaker and claim 24 produces an audible signal. These features belong to the device of figure 6 or species II. Accordingly, these claims are withdrawn from consideration.

The examiner notes that the word "attenuate" means reduce, diminish, lessen, weaken or similar terminology. It appears that applicant is using the term for a different meaning and should amend the specification accordingly.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The subject matter of claim 15 is not disclosed.

Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 7 recites that the pressure sensor is a sphygmomanometer. The examiner notes that a sphygmomanometer is a device to measure blood pressure including a cuff,

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a pump, and a analyzer. This is not disclosed. It appears that applicant meant to recite that it is a blood pressure sensing transducer.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 8-15, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fruscello in view of Grasfield et al. Fruscello shows a traditional stethoscope with a built in temperature transducer. Both signals are sent to an analyzer via a wired connection. Grasfield et al further teaches that wired and wireless connections (with a transmitter and receiver) are equivalent. Therefore, it would have been obvious to modify Fruscello to use a wireless connection, as it is merely the substitution of one known equivalent device for another. The examiner notes that the signal with "attenuate" over any distance, noting that attenuate means to diminish or weaken.

Claims 1-3, 7-12, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thorton et al. Thorton shows a device that senses a physiological signal and limits the output power of a transmitter to limit the range of transmission. It does not have a pressure transducer, but senses a variety of physiological signals. The examiner takes official notice that wireless pressure measuring systems with diaphragms or blood pressure measuring transducers are known. Therefore, it would have been obvious to modify Thorton to measure pressure, as it

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is merely the substitution of one known analyte for another. The examiner notes that the range n Thorton is disclosed as being in a hospital room, or 35-50 feet. However, the examiner notes that the exact range would have been a mere matter of design choice, depending on the size of the room.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser Jr. whose telephone number is (703) 308-3251. The examiner can normally be reached on Monday-Thursday and alternate Fridays from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cary O'Connor, can be reached on (703) 308-2701. The fax phone number for this Group is (703) 308-0758.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [cary.o'connor@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0858.

RLN  
December 28, 2001

*Robert L. Nasser Jr.*  
ROBERT L. NASSER  
PRIMARY EXAMINER

Attachment for PTO-948 (Rev. 03/01, or earlier)  
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.